



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

May 31, 1996

Ms. Doreen E. McGookey
Assistant City Attorney
Criminal Law and Police Division
City of Dallas
501 Police and Courts Building
Dallas, Texas 75201

OR96-0838

Dear Ms. McGookey:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 39882.

The Dallas Police Department (the "department") received a request for a recording of a 911 call concerning a disturbance at 4339 Buena Vista Street. You inform us that the requested recording pertains to an open criminal investigation. You assert that the requested recording is excepted from required public disclosure based on section 552.108 of the Government Code.

Section 552.108 of the Government Code, sometimes referred to as the "law enforcement" exception, provides as follows:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from [required public disclosure].

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from [required public disclosure].

Section 552.108(a) excepts from required public disclosure all information related to cases under active investigation except certain basic information ordinarily appearing on the first page of an offense report. *See Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976).¹ As you inform us that the recording may possibly be used as evidence in the pending criminal case concerning the disturbance that gave rise to the 911 call, we conclude that the department may withhold the requested recording from required public disclosure pursuant to section 552.108 of the Government Code.

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay Guajardo
Assistant Attorney General
Open Records Division

KHG/rho

Ref.: ID# 39882

Enclosure: Submitted information

cc: Mr. Jim Willett
News Assignments Manager
KDFW-TV
100 North Griffin Street
Dallas, Texas 79202
(w/o enclosure)

¹Section 552.108(a) excepts from required public disclosure information related to inactive or closed cases only when its release would unduly interfere with law enforcement or prosecution. *See* Open Records Decision No. 616 (1993) (citing *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977)).